

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	CASE NO. 8:05CR87
)	
Plaintiff,)	
)	
vs.)	TENTATIVE FINDINGS
)	
BRIAN L. WEBSTER,)	
)	
Defendant.)	

The Court has received the Presentence Investigation Report ("PSR"). The parties have adopted the PSR, yet they request the Court to honor the plea agreement reached pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C). (Filing Nos. 73, 74.) See "Order on Sentencing Schedule," ¶ 6.

The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 2005 WL 50108 (U.S. Jan. 12, 2005), the sentencing guidelines are advisory.

The plea agreement reached pursuant to Rule 11(c)(1)(C) requires, among other things, a 140-month sentence with respect to Count I as a "reasonable" sentence based on the drug quantity as well as the Defendant's criminal history and role in the offense. The PSR reflects a total offense level of 31, criminal history category VI, and a sentencing guideline range of 188-235 months. The Court will discuss the plea agreement and the PSR at the sentencing hearing.

IT IS ORDERED:

1. The parties are notified that my tentative findings are that the PSR is correct;
2. If **any** party wishes to challenge these tentative findings, the party shall file, as soon as possible but in any event before sentencing, and serve upon opposing counsel

and the court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

3. Absent submission of the information required by paragraph 2 of this order, my tentative findings may become final;

4. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 1st day of November, 2005.

BY THE COURT:

s/ Laurie Smith Camp
United States District Judge